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International Court of Justice

H4016 - 0002

OFFICE OF CHIEF OF COUNSEL FOR WAR CRIMES

EVIDENCE DIVISION

Date : 9 August 1948

I certify that Document Number 3309-PS was introduced into evidence as Exhibit Number GB-495 in the Trial by the International Military Tribunal of Hermann GOERING, et al, which commenced on 20 November 1945, and that the attached photostat is a true and correct copy of the original.

Fred Niebergall

Fred NIEBERGALL
Chief, Document
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C E R T I F I C A T E

I hereby certify that the annexed document 3309-PS No. GB - 495 is a photostat of an original document submitted in evidence by the British Prosecution under this number. The original document has been withdrawn in accordance with Rule 10 of the International Military Tribunal, and to the best of my knowledge and belief is to be held at the National Archives, Washington D.C.

Paul Joosten

PAUL A. JOOSTEN

General Secretary
International Military Tribunal

Nuremberg, 9 August 1948

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3309-PS

AFFIDAVIT

STATEMENT OF OTTO MEISSNER

I, OTTO MEISSNER, being first duly sworn on oath, state:

1. I was Chief of the Presidential Chancellory from 1920 to 1924 under President Ebert; from 1924 to 1934 under President von Hindenburg; and from 1934 to 1945 under Hitler.

2. At the time Chancellor Bruening took office, the right wing parties, and in particular the National Socialists had been gaining votes in all recent local and regional elections. It was doubtful whether the Reichstag with its strong left wing representation corresponded with the feelings of the German people, and there consequently existed a serious threat that the National Socialists might come into power nationally. This was a possibility which President von Hindenburg was reluctant to acknowledge. He had fear that Hitler's appointment would lead to domestic oppression of other parties and parts of the population and to difficulties in foreign policies. Everybody knew that the risk of war in the event of Hitler's accession to power was involved in Hindenburg's reticence. Beyond doubt, the dominant theme in Hindenburg's thoughts throughout the period leading up to Hitler's appointment as Chancellor -- and in particular after the period of Bruening's fall -- was the problem of how to handle the National Socialists, in particular whether they could be kept out of power - or, if not, what the conditions were under which they could be admitted to the government. Hindenburg hoped that a right wing coalition government might be formed, in which the Nazi threat would be absorbed. On the other hand Hindenburg feared the possibility that the Nazis might seize power by force.

3. The attitude of the Papen cabinet toward the National Socialists was not uniform. Some of the ministers such as Guertner, the Minister of Justice, Schwerin von Krosigk, the Minister of Finance, Freiherr von Braun, the Minister of Food and Agriculture, and, at the beginning, also Schleicher, who had become Reichswehrminister, believed that the correct line would be to draw nearer to the National Socialists with the aim chiefly of taking some National Socialists as ministers

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into the Reich government. On the other hand, Papen himself and Freiherr von Gayl, the Minister of the Interior, believed a strictly defensive position was necessary against the Nazis and against their setting up of semi-military formations. Schleicher wavered somewhat between these two viewpoints. It is important for understanding of the events of this period to keep clearly in mind the fact that Papen and Schleicher did not see eye to eye with each other on this question of handling the National Socialists and that, originally, Papen was more opposed to giving them power than Schleicher.

4. Hindenburg, at this time, was of the opinion that the National Socialists' strength was ephemeral only and would disappear [illegible] as the economic situation improved. Moreover, he was unwilling to entrust the National Socialists with government and did not change his mind even when, in contrast to Papen's hopes and expectations, the elections of July 1932 brought an increase in National Socialist votes.

The first meeting concerning this question between Hindenburg and Hitler occurred on 13 August 1932, following a personal request by Hitler transmitted to me by Hitler's adjutant, Brueckner. This meeting was held in Hindenburg's study, and, aside from Hindenburg and Hitler, only Goering and myself were present. Hitler outlined in a long speech his general ideas and his political aims, emphasizing that he wanted to come to power by legal means, discussing at length the domestic reforms he hoped to achieve, as well as declaring a desire to regain Germany's sovereignty in the military field and over the whole extent of German territory. At this conference he stressed explicitly that he wanted to achieve all these aims only by pacific means, through negotiation and persuasion. He stressed repeatedly that in order to achieve these aims and to work successfully he needed to have full power, that he would be unable to carry out these plans with coalitions and promises by rival groups. He therefore rejected any division of power with other parties. Hindenburg stated that because of the tense situation, he could not in good conscience risk transferring the power of govern-

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ment to a new party, such as the National Socialists, which did not command a majority and which was intolerant, noisy, and undisciplined. At this point, Hindenburg, with a certain show of excitement, referred to several recent occurrences - clashes between the Nazis and the police, acts of violence committed by Hitler's followers against those who were of a different opinion, excesses against Jews and other illegal acts. All these incidents had strengthened him in his conviction that there were numerous wild elements in the Party beyond effective control. With regard to foreign policy, Hindenburg stated that conflicts with other states had to be avoided under all circumstances, After extended discussion, Hindenburg proposed to Hitler that he should declare himself ready to cooperate with the other parties, in particular with the right and center and that he should give up the one-sided idea that he must have complete power. In cooperating with other parties, Hindenburg declared, he would be able to show what he could achieve and improve upon. If he could show positive results, he would acquire increasing and even dominating influence even in a coalition government. Hindenburg stated that this also would be the best way to eliminate the widespread fear that a National Socialist government would make ill use of its power and would suppress all other viewpoints and gradually eliminate them. Hindenburg stated that he was ready to accept Hitler and the representatives of his movement in a coalition government, the precise combination to be a matter of negotiation, but that he could not take the responsibility of giving exclusive power to Hitler alone. In his reply, Hitler stated that it was not his intention to place party members in all ministerial jobs and leading positions, but that he would take in experts and experienced civil servants. He was adamant, however, in refusing to put himself in the position of bargaining with the leaders of the other parties and in such manner to form a coalition government. As was announced in the communique following this meeting, Hindenburg and Hitler failed to readh any agreement concerning participation in the government by the Nazis.

In the period which followed Hindenburg had further discussions

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with Hitler and Goering, ~~as well as with Goering alone.~~ Although Hitler continued to insist on his demand for undivided power and upon his appointment as Chancellor, he made some concessions insofar as he emphasized repeatedly that he did not intend to give all ministerial positions to members of his party, but would appoint tested experts quite without reference to Party membership, and he would leave the appointment of the Reichswehrminister to the Reichs President as Commander in Chief of the Army, and, if the President desired, he would also leave the Foreign Minister von Neurath in his position, as an indication that no fundamental change in foreign policy was intended.

I myself also remained in contact with the National Socialists through Koerner, an intimate friend of Goering's, who later became State Secretary in the Four-Year Plan. In general, these negotiations and contacts gave the impression that, although outwardly the National Socialists insisted on their demand for full power, they were nevertheless interested in getting into the government without breaking off all contacts with the Reichs President.

This is not unimportant for understanding the development which led to the replacement of Papen by Schleicher. Hindenburg and Schleicher agreed that Hitler's demand for full power would have to be resisted, but that his inclusion in a coalition government of the Right, which would be formed on as broad a basis as possible, was desirable and should be aimed at.

The negotiations recounted above and contacts with Gregor Strasser had led Schleicher to the belief that he would be able to achieve this. Papen seemed unsuited to such a task. Dissolution of the Reichstag and new elections had not diminished but only increased the National Socialist poll of votes, and Papen was without support in the Reichstag. He thereupon tendered his resignation.

5. Papen's reappointment as Chancellor by President Hindenburg would have been probable if he had been prepared to take up an open fight against the National Socialists, which would have involved the threat or use of force. Almost up to the time of his resignation,

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Papen and some of the other ministers agreed on the necessity for pressing the fight against the Nazis by employing all the resources of the State and relying on Article 48 of the Constitution, even if this might lead to armed conflict. Other ministers, however, believed that such a course would lead to civil war.

The decision was provided by Schleicher, who in earlier times had recommended energetic action against the National Socialists - even if this meant the use of police and army. Now, in the decisive cabinet meeting, he abandoned this idea and declared himself for an understanding with Hitler.

The gist of Schleicher's report - which was given partly by himself, partly by Major Ott, who adduced detailed statistical material - was that the weakened Reichswehr, which was dispersed over the whole Reich, even if supported by civilian volunteer formations, would not be equal to military operations on a large scale, and was not suited and trained for civil war. The police, in particular the Prussian police, had been undermined by propaganda and could not be considered as absolutely reliable. If the Nazis began an armed revolt, one must anticipate a revolt of the Communists and a general strike at the same time. The forces of these two adversaries were very strong. If such a "war against two fronts" should take place, the forces of the State would undoubtedly be disrupted. The outcome of a civil war would be at the least most uncertain.

In his, Schleicher's view, it was impossible to take the risks implied in such a policy. In case of failure, which he believed likely, the consequences for Germany would be terrible. All present in the cabinet meeting were deeply impressed by Schleicher's statement, and even those who had been in favor of energetic action against the National Socialists now changed their mind, so that Papen ~~was isolated and~~ felt himself isolated. ~~to be abandoned.~~

In the interview which Papen had with Hindenburg after this meeting on November 17th 1932 - Papen did not conceal his deep disappointment over Schleicher's altered position. Although Hindenburg asked him to make a new attempt to form a government, Papen stood on his decision to resign and Hindenburg gave in.

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6. The weakening of Schleicher's position as Chancellor is best understood by referring to the foregoing review of the situation which led to his elevation to that position---namely, the fact that Papen was dismissed because he wanted to fight the National-Socialists and did not find in the Reichswehr the necessary support for such a policy, and the fact that Schleicher came to power because he believed he could form a government which would have the support of the National-Socialists. When it had become clear that Hitler was not willing to enter Schleicher's cabinet and that Schleicher on his part was unable to split the National-Socialist Party, as he had hoped to do with the help of Gregor-Strasser, the policy for which Schleicher had been appointed Chancellor was shipwrecked. Schleicher was aware that Hitler was particularly embittered against him because of his attempt to break up the Party, and would never agree to cooperate with him. So now he had changed his mind and decided to fight against the Nazis - which meant that he now wanted to pursue the policy which he had sharply opposeda few weeks before, when Papen had suggested it. Schleicher came to Hindenburg therefore with a demand for emergency powers as a necessary prerequisite of action against the Nazis. He deemed also to be necessary the dissolution, and even temporary elimination, of the Reichstag, which was to be done by decree of the President on the basis of Article 48 - the transformation of his government into a military dictatorship, and a government to be carried on generally on the basis of Article 48.

Schleicher first made these suggestions to Hindenburg in the middle of January '33, but Hindenburg at once evinced grave doubts, as to its constitutionality. In the meantime Papen had returned to Berlin, and through arrangement with Hindenburg's son, had had several interviews with the President. When Schleicher renewed his demand for emergency powers, Hindenburg declared that he was unable to give him such a blank check and must reserve for himself decisions on every individual case. Schleicher, for his part, said that under these circumstances, he was unable to stay in government and tendered his resignation on January 28th 1933.

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7. In the middle of January, when Schleicher was first asking for emergency powers, Hindenburg was not aware of the contacts between Papen and Hitler, -- particularly the meeting which had taken place in the house of the Cologne banker, Kurt Von Schroeder. In the second part of January, Papen played an increasingly important role in the house of the Reich's president, but in spite of Papen's persuasions, Hindenburg was extremely hesitant - until the end of January - to make Hitler chancellor. He wanted to have Papen as chancellor once more. Papen finally won him to Hitler with the argument that the representatives of the other right wing parties which would belong to the Government would restrict Hitler's freedom of action. In addition Papen expressed his misgivings that, if the present opportunity should again be missed, a revolt of the National Socialists and civil war were likely.

Many of Hindenburg's personal friends, such as Oldenburg-Januschau, also General von BLOMBERG, worked in the same direction as Papen. The President's son and adjutant, Oskar von Hindenburg, was opposed to the Nazis up to the last moment. The turning point which changed his mind came at the end of January. Then, at the suggestion of Papen, a meeting had been arranged between Hitler and Oskar von Hindenburg in the house of Ribbentrop. Oskar von Hindenburg asked me to accompany him, ~~and after we had been together at the opera,~~ we took a taxi, in order to keep the appointment secret, and drove out to Ribbentrop's house. When we arrived, we found a large company assembled; among those present were Goering and Frick.

Oskar von Hindenburg was told that Hitler wanted to talk to him "under four eyes", and as Hindenburg had asked me to accompany him, I was somewhat astonished that he accepted this suggestion and disappeared in another room for a talk which lasted quite a while - ~~certainly more than~~ about an hour. What Hitler and Oskar von Hindenburg discussed during this talk I do not know.

In the taxi on the way back Oskar von Hindenburg was extremely silent, and the only remark which he made was that it could not be helped - the Nazis had to be taken into the Government. My impression was that Hitler had succeeded in getting him under his spell. I may

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add the amusing fact that early next morning Schleicher telephoned and asked me what had been discussed with Hitler the evening before; this shows that all our precautions to keep the matter secret had been of no avail.

For a very long time I had taken a distinctly negative attitude toward the accession of Hitler to power and up to the end did nothing to dispel the doubts which the Reich's President felt about the wisdom of making Hitler Chancellor. (I had an exchange of letters with Hitler about this, which were published in the papers of the press) I want also to add that I was eliminated from these last negotiations by Papen, who negotiated with the Reichs President "under four eyes" and who barely kept me informed about his discussions with the Reich President and his negotiations with Hitler and Goering. This was in distinct contrast to the way in which on previous occasions governments had been formed, --- as, for example, at the time of Bruening's dismissal, when Hindenburg, Schleicher and I spent considerable time going over various names suggested as possible candidates for the position of Chancellor before the name of Papen was definitely decided upon. In view of this difference, what I know now in regard to the last manuevers to place Hitler in office comes from the Reichs President himself.

8. I also had no part in Papen's negotiations on the personnel which should compose the new government. Only after this issue had been settled did I receive the list and the order to write out the formal documents of appointment and to prepare the swearing in of the new Chancellor and of the new Reichs ministers. On the other hand, when I saw that despite his hesitations Hindenburg had decided to accept Papen's proposals, I gave up my opposition.

9. The facts stated above are true to the best of my knowledge, information and belief. This declaration is made by me voluntarily and without compulsion. After reading over this statement I have signed and executed the same at OBERURSEL/Germany this 28 day of November 1945.

(Signed) Otto Meissner
OTTO MEISSNER

Subscribed and sworn to before me at OBERURSEL/Germany this 28 day of November 1945.

1st Lt R. A. Gutman

(Signed) Otto Meissner

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G. B. EXHIBIT

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Exhibit - G. B. 495

Filed June 18, 1946
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8. Pages